

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kenneth Shelton	Team: Squad #2	CCRB Case #: 201809482	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/10/2018 , Saturday, 11/03/2018 , Monday, 11/05/2018 12:05 PM, Wednesday, 11/14/2018	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 5/5/2020	EO SOL 12/20/2020	
Date/Time CV Reported Tue, 11/06/2018 7:37 AM	CV Reported At: Other City agency	How CV Reported: E-mail	Date/Time Received at CCRB Tue, 11/13/2018 11:05 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Starlin Dominguez	02943	935169	WARRSEC
2. POF Angela Pennacchia	18742	940512	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Hansen	03887	949082	WARRSEC
2. POM Ruben Guerrero	12555	953935	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.POM Starlin Dominguez	Abuse: On November 5, 2018, Police Officer Starlin Dominguez threatened to arrest § 87(2)(b) to § 87(2)(b)	
B.POM Starlin Dominguez	Abuse: On November 14, 2018, Police Officer Starlin Dominguez entered § 87(2)(b) in the Bronx.	
C.POM Starlin Dominguez	Abuse: On November 14, 2018, Police Officer Starlin Dominguez threatened to arrest § 87(2)(b)	
D.POM Starlin Dominguez	Abuse: On November 14, 2018, Police Officer Starlin Dominguez searched § 87(2)(b) in the Bronx.	
E.POF Angela Pennacchia	Abuse: On November 14, 2018, Police Officer Angela Pennacchia threatened to arrest § 87(2)(b) to § 87(2)(b)	

Case Summary

On November 6, 2018, § 87(2)(b) called 311 and filed this complaint with IAB. It was received by the CCRB on November 13, 2018. On November 15, 2018, § 87(2)(b) § 87(2)(b)'s daughter, § 87(2)(b) filed a complaint about the same set of incidents at the 40th Precinct stationhouse (BR 12).

On November 5, 2018, at approximately 12:05 p.m., Police Officer Starlin Dominguez, Police Officer Angela Pennachia, Police Officer Christophe Hansen, and Police Officer Ruben Guerra, all from Bronx Warrants, visited § 87(2)(b) in the Bronx. Police Officer Dominguez spoke to § 87(2)(b)'s daughter § 87(2)(b) at the entrance to the apartment regarding an arrest warrant that Police Officer Dominguez had. During this conversation, Police Officer Dominguez allegedly threatened to arrest § 87(2)(b) who was not present, while speaking to § 87(2)(b) (**Allegation A: Abuse of Authority,** § 87(2)(g)).

On November 14, 2018, at approximately 8:30 p.m., Police Officer Dominguez, Police Officer Pennachia, Police Officer Hansen, and Police Officer Guerro returned to § 87(2)(b) in the Bronx. § 87(2)(b) answered the door and spoke to Police Officer Dominguez. After speaking to § 87(2)(b) Police Officer Dominguez pushed past her and entered the apartment (**Allegation B: Abuse of Authority**, § 87(2)(g) Once inside the apartment, Police Officer Dominguez threatened to arrest § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g) Police Officer Dominguez and Police Officer Hansen then searched within the apartment (**Allegation D: Abuse of Authority**, § 87(2)(g) Police Officer Angela Pennachia allegedly threatened to arrest § 87(2)(b) while speaking to § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g)

No arrests were made and no summonses were issued during this incident.

No video footage of this incident was found by the investigation.

Findings and Recommendations

Allegation (A) Abuse of Authority: On November 5, 2018, Police Officer Starlin Dominguez threatened to arrest § 87(2)(b) to § 87(2)(b)

On November 15, 2018, § 87(2)(b) and § 87(2)(b) provided telephone statements to the CCRB (BR 11). On November 26, 2018, § 87(2)(b) (BR 21), § 87(2)(b) (BR 03), and § 87(2)(b) (BR 04) were interviewed at the CCRB. On January 7, 2019, § 87(2)(b) (BR 02) was interviewed at the CCRB. On January 28, 2019, Police Officer Starlin Dominguez (BR 05) was interviewed at the CCRB. On February 4, 2019, Police Officer Ruben Guerro (BR 07) was interviewed at the CCRB. On February 7, 2019, Police Officer Angela Pennachia (BR 06) was interviewed at the CCRB. On February 15, 2019, Police Officer Ryan Sheehan was interviewed at the CCRB. On February 28, 2019, Police Officer Christophe Hansen (BR 08) was interviewed at the CCRB.

It is undisputed that Police Officer Dominguez visited § 87(2)(b) in the Bronx with Police Officer Pennachia, Police Officer Hansen, and Police Officer Guerro on November 5, 2018. § 87(2)(b) answered the door; Police Officer Dominguez identified himself as a police officer, and asked to speak to § 87(2)(b). § 87(2)(b) told Police Officer Dominguez that her mother was not home. Police Officer Dominguez informed § 87(2)(b) that the officers had a warrant for § 87(2)(b) and were looking for him. Police Officer Dominguez also told § 87(2)(b) that § 87(2)(b) should contact him if § 87(2)(b) had been in contact with § 87(2)(b) § 87(2)(g).

§ 87(2)(g)

§ 87(2)(b) stated that after Police Officer Dominguez showed her a photo of § 87(2)(b) on a wanted poster, he asked if § 87(2)(b) was at the apartment and § 87(2)(b) replied that he was not. Police Officer Dominguez told § 87(2)(b) that he visited the apartment prior and spoke with § 87(2)(b). He added that he had some type of information that § 87(2)(b) had been in contact with § 87(2)(b) and that § 87(2)(b) should contact him. Police Officer Dominguez then stated that because § 87(2)(b) has not been in contact with the officers in regards to speaking with § 87(2)(b) she could be arrested, though § 87(2)(b) did not remember the exact statement that the officer made.

Police Officer Dominguez recalled speaking with § 87(2)(b) on November 5, 2018, but did not recall if he spoke to § 87(2)(b) about § 87(2)(b) possibly speaking with § 87(2)(b). Police Officer Dominguez denied threatening to arrest § 87(2)(b) to § 87(2)(b) did not witness this occurring, and was never made aware that this occurred.

All of the other officers interviewed for this case denied that Police Officer Dominguez threatened to arrest § 87(2)(b) to § 87(2)(b).

§ 87(2)(g)

Allegation (B) Abuse of Authority: On November 14, 2018, Police Officer Starlin Dominguez entered § 87(2)(b) in the Bronx.

It is undisputed that, on November 14, 2018, Police Officer Dominguez arrived at § 87(2)(b) in the Bronx with Police Officer Pennachia, Police Officer Hansen, and Police Officer Guerro. § 87(2)(b) answered the door and spoke to Police Officer Dominguez. Police Officer Dominguez identified himself and asked to speak to § 87(2)(b). § 87(2)(b) stated that her mother was home but declined to let Police Officer Dominguez speak to her. § 87(2)(b) told Police Officer Dominguez that she was not consenting to a search and requested to see a warrant multiple times. Police Officer Dominguez repeated his request to enter the apartment and § 87(2)(b) declined. Police Officer Dominguez told § 87(2)(b) that he was going to enter the apartment and crossed the threshold of the apartment door. While entering the apartment, Police Officer Dominguez pushed § 87(2)(b). It is also undisputed that later on in the incident, Police Officer Dominguez told § 87(2)(b) that he believed § 87(2)(b) to be located between California and Miami.

§ 87(2)(b) stated that Police Officer Dominguez asked if the officers could search the house and she repeatedly declined. Police Officer Dominguez stated, “We’re searching this house today” and pushed § 87(2)(b) with his left forearm on the middle of her chest. § 87(2)(b) stumbled backwards into the house and the officers entered the apartment.

Police Officer Dominguez stated that through his investigation, he had reason to believe that § 87(2)(b) was out of state. He intended to visit the incident location on November 14, 2018 to speak with § 87(2)(b) and ask if she had been in touch with § 87(2)(b) and to ask her to tell § 87(2)(b) to come back to New York. Police Officer Dominguez knocked on the door and § 87(2)(b) opened the door approximately halfway and stood in the middle of the doorway. Police Officer Dominguez asked to speak with § 87(2)(b).

and § 87(2)(b) responded that § 87(2)(b) was her mother. § 87(2)(b) asked why the officers were there and stated that she did not need to speak with the officers due to a conversation she had with someone at the Bronx Defenders. Police Officer Dominguez responded that he just wanted to speak with § 87(2)(b). Police Officer Dominguez asked how § 87(2)(b) was related to § 87(2)(b) and § 87(2)(b) responded that he was her father. § 87(2)(b) told the officers to leave and stated, “You better get outta here.” Police Officer Dominguez explained to § 87(2)(b) that he wanted to speak with § 87(2)(b) so that he could follow up on § 87(2)(b) case. § 87(2)(b) refused again, specifically stating, “No, no, no.” Police Officer Dominguez replied that he wanted to check the apartment to make sure that § 87(2)(b) was not at the location and added that § 87(2)(b) was raising his suspicion that § 87(2)(b) was inside the location. § 87(2)(b) responded, “You cannot come in my apartment.” Police Officer Dominguez stated to § 87(2)(b) that he had a warrant for § 87(2)(b) arrest and that he could enter the apartment to see if § 87(2)(b) was inside. § 87(2)(b) then asked to see the warrant. Police Officer Dominguez replied that he had the warrant but forgot it downstairs and added that § 87(2)(b) knew he had the warrant and saw it before. Police Officer Dominguez then requested to speak with § 87(2)(b) again, to which § 87(2)(b) denied.

At this point, Police Officer Dominguez started to walk into the apartment. After taking the first step into the apartment, § 87(2)(b) pushed Police Officer Dominguez on his left shoulder, left arm, and left side of his body multiple times. Police Officer Dominguez extended his left arm out in front of his body to resist against § 87(2)(b) pushing him and pushed back against her multiple times. § 87(2)(b) did not stumble or fall as a result of him pushing her. Police Officer Dominguez told § 87(2)(b) “I’m coming in. I have a warrant and I’m just going to check for him.” § 87(2)(b) responded by cursing, yelling, and stated, “Get the fuck out of my apartment, you’re not allowed in here, and I’m not letting you in.”

At this moment, § 87(2)(b) arrived from upstairs in the home and asked what was going on. Police Officer Dominguez told § 87(2)(b) “You know what we’re here for. You know I have a warrant.” Simultaneously, § 87(2)(b) then told § 87(2)(b) to let the officers into the home and repeatedly stated, “Stop § 87(2)(b) stop!” Police Officer Dominguez asked § 87(2)(b) if he could come into the apartment and § 87(2)(b) responded, “Yes, come in and do what you have to do.”

During his CCRB interview, Police Officer Dominguez stated that § 87(2)(b) s repeated requests for the officers to leave, in addition to her defensive behavior, led him to believe that § 87(2)(b) was inside of the apartment. Police Officer Dominguez denied that there was anything else that led him to believe that § 87(2)(b) was inside of the apartment besides § 87(2)(b) s behavior. Police Officer Dominguez did not remember asking § 87(2)(b) if § 87(2)(b) was at the apartment but stated that § 87(2)(b) stated, “If you’re here for my dad, he’s not in here” after he asked to speak to § 87(2)(b). Police Officer Dominguez remembered telling § 87(2)(b) that during his investigation he determined that § 87(2)(b) was located somewhere between California and Miami.

Police Officer Hansen stated that while Police Officer Dominguez spoke to § 87(2)(b) § 87(2)(b) was agitated, was speaking loudly, and repeatedly looked back to the ground floor of the apartment and the staircase. Besides § 87(2)(b) s behavior, there was nothing else that led Police Officer Hansen to believe that § 87(2)(b) was located in the

apartment. Police Officer Dominguez then attempted to enter the apartment. As he crossed the threshold, § 87(2)(b) pushed him multiple times. Police Officer Hansen did not observe any specific reaction from Police Officer Dominguez but Police Officer Dominguez was able to ultimately enter the apartment.

Police Officer Pennachia stated that after speaking to Police Officer Dominguez, § 87(2)(b) moved away from the door, positioned her body 90 degrees away from the entrance, and stated, “He’s not here, what else do you want?” § 87(2)(b) then allowed the officers to enter the apartment. § 87(2)(b)’s apparent nervousness and initial reluctance to allow officers to enter, raised Police Officer Pennachia’s suspicion that she might have been hiding someone.

Police Officer Guerro stated that Police Officer Dominguez visited the incident location with the intention of speaking to § 87(2)(b). He believed that Police Officer Dominguez left the warrant in the police vehicle because he just wanted to have a conversation with § 87(2)(b) to ask if she had spoken to § 87(2)(b). Police Officer Guerro stated that § 87(2)(b) reacted aggressively and kept looking around “like she was trying to hide something,” which elevated his suspicion that § 87(2)(b) might be hiding § 87(2)(b). Police Officer Guerro left the entrance to the apartment to go downstairs and retrieve a copy of the warrant and did not know how the entry occurred.

§ 87(2)(g)

The investigation obtained the bench warrant for § 87(2)(b), which was issued on § 87(2)(b) and was active at the time of the incident. The warrant notes § 87(2)(b) address as § 87(2)(b) in the Bronx (BR 09).

A DMV search lists § 87(2)(b) address as § 87(2)(b) (BR 10).

An arrest warrant carries with it the authority for officers to enter a dwelling in which the suspect lives and where the officers have a reasonable belief that the suspect is within at the time of entry. People v. Paige, 77 A.D.3d 1193 (2010) (BR 22). In Paige the court ruled that the actions of a person who opened the door when officers went to the residence of another person for whom they had an arrest warrant, specifically standing in the doorway and looking back over his shoulder while informing officers that the person they were looking for was not present and refusing to allow officers to enter, did not give officers an objective reasonable belief that the person they were looking for was hiding inside and did not constitute obstruction of governmental administration.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

Dominguez threatened to arrest § 87(2)(b)

It is undisputed that Police Officer Dominguez threatened to arrest § 87(2)(b). § 87(2)(b) stated that after the officers entered the apartment, she yelled “Why would you do that?” at Police Officer Dominguez, and asked multiple times to see a warrant. Police Officer Dominguez responded that the warrant was downstairs and told § 87(2)(b) that she would be arrested if she did not calm down because she was being rowdy and hostile. An officer then took out their handcuffs. § 87(2)(b) described herself as aggravated and upset at this moment. She added that she used profanity when speaking to Police Officer Dominguez in addition to making hand gestures while speaking.

Police Officer Dominguez stated that he told § 87(2)(b) “I’m coming in. I have a warrant and I’m just going to check for him.” § 87(2)(b) responded by cursing, yelling, and stated, “Get the fuck out of my apartment, “You’re not allowed in here” and “I’m not letting you in.” § 87(2)(b) continued to push Police Officer Dominguez and Police Officer Dominguez told § 87(2)(b) “You keep doing what you’re doing, you’re gonna get arrested.” § 87(2)(b) replied, “Get outta here.” Police Officer Dominguez did not remember any specific response by § 87(2)(b) to him threatening to arrest her and added that he made this threat of arrest multiple times. Police Officer Dominguez stated that, in addition to being able to arrest her for pushing him, § 87(2)(b) could have also been arrested for impeding the performance of his duties. Police Officer Dominguez did not remember if he took out his handcuffs after threatening to arrest § 87(2)(b)

Police Officer Pennachia stated that Police Officer Guerro and Police Officer Dominguez showed § 87(2)(b) the arrest warrant later in the incident and § 87(2)(b) requested a copy of the warrant. § 87(2)(b) then made physical contact with Police Officer Dominguez's chest by pushing him as she attempted to grab the warrant. Police Officer Dominguez reacted by telling § 87(2)(b) that she would be arrested if she did not calm down and told her that she would be arrested for not letting him continue with his investigation.

Police Officer Guerro and Police Officer Han
Dominguez threatening to arrest § 87(2)(b)

§ 87(2)(g)

Allegation (D): Abuse of Authority: On November 14, 2018, Police Officer Starlin Dominguez searched § 87(2)(b) in the Bronx.

It is undisputed that, after officers entered § 87(2)(b), § 87(2)(b) gave them permission to search, which they did, but that § 87(2)(b) continued to protest the officers' presence in the apartment while they did so.

§ 87(2)(b) stated that after Police Officer Dominguez entered the apartment, she told § 87(2)(b) to let the officers search the apartment. While the officers searched the apartment, § 87(2)(b) continued to pace around and argue with the officers. § 87(2)(b)'s boyfriend ultimately locked her in a bathroom to keep her from being arrested.

Police Officer Dominguez stated that, after entering the apartment, § 87(2)(b) arrived from upstairs in the apartment. Police Officer Dominguez told § 87(2)(b) "You know what we're here for. You know I have a warrant." Simultaneously, § 87(2)(b) then told § 87(2)(b) to let the officers into the home and repeatedly stated, "Stop § 87(2)(b) stop!" Police Officer Dominguez asked § 87(2)(b) if he could come into the home and § 87(2)(b) responded, "Yes, come in and do what you have to do."

Consent to search must be freely given and not be a mere acquiescence to a show of police authority. *Schneekloth v. Bustamonte*, 412 U.S. 218 (1972) (BR20).

§ 87(2)(g)

Allegation (E): Abuse of Authority: On November 14, 2018, Police Officer Angela Pennachia threatened to arrest § 87(2)(b) to § 87(2)(b)

§ 87(2)(b) stated that Police Officer Pennachia told § 87(2)(b) to escort her, § 87(2)(b) to the bathroom so that she did not get arrested.

§ 87(2)(b) stated that he observed an officer remove his handcuffs while § 87(2)(b) argued with another officer. § 87(2)(b) upon seeing the handcuffs, then grabbed § 87(2)(b) and threw her into the bathroom so that she did not get arrested. Police Officer Pennachia then told § 87(2)(b) to calm § 87(2)(b) down before she was arrested.

Police Officer Pennachia denied any statement about § 87(2)(b) possibly being arrested. She denied that there was ever a conversation about placing § 87(2)(b) in the bathroom to calm down.

All of the other officers interviewed for this case denied hearing Police Officer Pennachia threaten to arrest § 87(2)(b) to § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

_____.

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) _____ and § 87(2)(b) _____ have been party (BR 01)
- Police Officer Starlin Dominguez has been a member of service for 15 years and has been subject in five CCRB complaints and nine allegations, one of which was substantiated.
 - CCRB case 201601825 involved a substantiated allegation of offensive language. The Board recommended command level instructions and the NYPD implemented command level instructions.
- Police Officer Angela Pennachia has been a member of service for 13 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) _____

Mediation, Civil and Criminal Histories

- § 87(2)(b) _____ and § 87(2)(b) _____ declined mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] _____

- § 87(2)(b) _____ filed a Notice of Claim with the City of New York claiming abuse of authority, emotional distress, and violation of constitutional rights and seeking \$100,000,000 as redress (BR 17)

Squad No.: _____2_____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

